

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

CLIFTON ADIANSHINGH,

Movant

v.

CIVIL ACTION NO. 2:03-0608
(Criminal No. 2:00-00207-02)

UNITED STATES OF AMERICA,

Respondent

MEMORANDUM OPINION AND ORDER

On May 18, 2006, the court granted the movant's amended section 2255 motion insofar as he sought the vacatur of his sentence imposed by the court previously on June 15, 2001.

The court directed the parties to consult with one another concerning the proper course of events to follow so that the court might exercise the discretion accorded it under United States v. Maybeck, 23 F.3d 888 (4th Cir. 1994). On August 8, 2006, the parties appeared for a plea hearing after reaching agreement that the movant would plead anew to a superseding information. In accordance with the discretion conferred by Maybeck, the court accepted the movant's guilty plea entered on August 8, 2006, along with the plea agreement entered into by the parties based upon the superseding information.

As directed by Maybeck, the parties were returned as nearly as possible to their pre-plea agreement positions as they existed on January 3, 2001, the date of the movant's original plea. Additionally, the movant has now pled anew and is awaiting re-sentencing. The court, accordingly, ORDERS as follows:

1. That the movant's plea of guilty entered January 3, 2001, be, and it hereby is, deemed withdrawn and vacated;
2. That the parties' plea agreement, accepted by the court at the June 15, 2001, sentencing hearing be, and it hereby is, deemed rescinded and vacated;
3. That the information, filed January 3, 2001, upon which the earlier plea and plea agreement were based, be, and it hereby is, dismissed without prejudice; and
4. That the movant's conviction that was based upon the foregoing plea and plea agreement be, and it hereby is, vacated.

The Clerk is directed to forward copies of this order to all counsel of record.

DATED: August 11, 2006


John T. Copenhaver, Jr.
United States District Judge